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**FISCAL IMPACT STATEMENT**

**LS 6845**

**BILL NUMBER:** HB 1380

**NOTE PREPARED:** Mar 20, 2006

**BILL AMENDED:** Mar 14, 2006

**SUBJECT:** Various Economic Development Matters.

**FIRST AUTHOR:** Rep. Smith J

**FIRST SPONSOR:** Sen. Ford

**BILL STATUS:** Enrolled

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** *Small Business Impact of Legislation:* The bill establishes a process by which the small business coordinator may submit comments about the impact of a proposed bill to the Office of Management and Budget (OMB). It authorizes the OMB to review the comments. It also requires, after review by the OMB, the comments to be posted to the General Assembly's web site by the Legislative Services Agency.

***Film Production Exemption:*** The bill provides that certain transactions occurring after December 31, 2006, and before January 1, 2009, that involve tangible personal property are exempt from Sales Tax if the person acquiring the property acquires it for the person's direct use in the direct production of a motion picture.

***EDGE Credit Program:*** The bill revises the wage standards for eligibility for an EDGE credit for retaining jobs. It also provides that an applicant for an EDGE credit for the retention of jobs must employ at least 35 persons (instead of 75 as required by current law). The bill increases the \$5,000,000 per year cap on the amount of EDGE credits that may be granted to retain existing jobs during each state fiscal year to \$10,000,000 per year. It also applies the cap to state FY 2006 and each state fiscal year thereafter (current law imposes a cap only through state FY 2007).

***Hoosier Business Investment Tax Credit:*** The bill removes the January 1, 2008, deadline for making investments in machinery, equipment, or special purpose buildings used to make motion pictures or audio productions that are eligible for the Hoosier Business Investment Tax Credit (HBITC). The bill extends the deadline by which a qualified investment must be made in order to be eligible for the HBITC until January 1, 2012.

***Headquarters Relocation Tax Credit:*** The bill reduces from \$500,000,000 to \$100,000,000 the amount of annual worldwide revenue that a business must have in order to qualify for the Headquarters Relocation Tax Credit. It requires a business to employ at least 75 employees in Indiana to receive the Headquarters Relocation Tax Credit. The bill also provides that the credit is available for taxable years beginning after December 31, 2005 (instead of December 31, 2006).

***Regional/Local Venture Capital Funds:*** The bill authorizes counties, cities, and towns that receive County Economic Development Income Taxes (CEDIT) to: (1) establish local venture capital funds; and (2) establish regional venture capital funds by pooling CEDIT revenues and grant proceeds. It provides that a regional venture capital fund shall be administered by a governing board. It also authorizes the governing board to make grants or loans from the fund to public or private entities for economic development purposes.

***Farm Mutual Insurance Companies:*** The bill provides that a farm mutual insurance company may elect taxation under the Gross Premium Tax.

**Effective Date:** January 1, 2006 (retroactive); April 1, 2006; July 1, 2006; January 1, 2007.

**Explanation of State Expenditures: Small Business Impact of Legislation:** The bill could increase administrative costs incurred by LSA to post information to the General Assembly's website. The bill authorizes a state agency coordinator (as defined by the bill) to review and comment on proposed legislation affecting small business, and authorizes OMB to review and make amendments to the comments. The coordinator in IDEM is the ombudsman appointed under current statute relating to IDEM's Technical and Compliance Assistance Program; and coordinators in other agencies are the small business regulatory coordinators appointed under current statute. The bill requires the OMB to forward the comments to LSA for posting on the General Assembly's website. Any cost incurred by a state agency or the OMB to do small business impact review is at the discretion of the agency, with LSA incurring cost to the extent that these discretionary reviews are carried out.

***Regional/Local Venture Capital Funds:*** The bill authorizes counties and municipalities to place CEDIT revenue in a venture capital fund (VCF) to foster: (1) economic development; (2) technology development; (3) industrial and commercial growth; (4) employment opportunities; and (5) diversification of industry and commerce. Any VCF established by a county or municipality is subject to an annual audit by the State Board of Accounts (SBA). The audit of a VCF likely could occur at the time the SBA audits other funds of a county or municipality. SBA personnel likely will see an increase in administrative time to complete the audit of any new VCF established under the bill. However, the VCF is required to cover the cost of the audit.

Additionally, terms for establishment of either regional or local VCFs and a governing board would have to be submitted to the IEDC for approval before contributions to the VCF could begin. The provision likely will increase the administrative time of the IEDC to approve VCF multiple-unit agreements.

***Department of State Revenue (DOR):*** The DOR will have additional administrative tasks and will incur additional expenses to revise tax forms, instructions, and computer programs due to the provisions concerning farm mutual insurance company tax treatment and the Sales Tax exemption for certain film production purchases. The DOR's current level of resources should be sufficient to implement these changes.

**Explanation of State Revenues: Film Production Exemption:** This bill provides that transactions involving

tangible personal property are exempt from Sales Tax if the person acquiring the property acquires it for the person's direct use in the direct production (including pre- and post-production) of a motion picture. The bill only allows the exemption for transactions occurring in CY 2007 and CY 2008. The estimated decrease in Sales Tax revenue for CY 2007 is between \$200,000 and \$270,000, and between \$200,000 and \$280,000 in CY 2008. The bill does *NOT* allow the exemption for the following items:

- (1) Food and beverage services.
- (2) Vehicles or other transportation for actors, crew, and staff.
- (3) Fuel, parts, supplies, or other consumables used in a vehicle for transportation of actors, crew, and staff.
- (4) Lodging.
- (5) Packaging materials.

Sales Tax revenue is deposited in the Property Tax Replacement Fund (50%), the state General Fund (49.192%), the Public Mass Transportation Fund (0.635%), the Commuter Rail Service Fund (0.14%), and the Industrial Rail Service Fund (0.033%).

***EDGE Credit Program:*** The bill makes the following changes to the EDGE Credit Program for job retention projects.

(1) The bill changes the annual limit on EDGE credits for job retention projects applicable in FY 2006 and after. The bill increases the annual credit limit in FY 2006 and FY 2007 from \$5 M to \$10 M. The potential amount of additional credits that might be awarded by the IEDC Board in FY 2006 and FY 2007 due to the bill is indeterminable, but could not exceed \$5 M each year. The bill also establishes a \$10 M annual credit limit beginning in FY 2008. Under current statute, the annual credit limit is eliminated altogether beginning in FY 2008.

(2) The bill reduces to 35 employees the minimum employment requirement under current statute for EDGE credits to be awarded for job retention projects. The minimum employment requirement is currently 75 employees. This change applies to applications filed after March 31, 2006. This change could facilitate approvals of EDGE credits for projects that don't meet the current minimum employment requirement. The precise fiscal impact of this change is, however, indeterminable.

(3) The bill changes the current average compensation standard for approval of EDGE credits for job retention projects. This change applies to applications filed after March 31, 2006. Currently, an applicant's average compensation must be:

- (a) 105% of the average compensation paid to employees working in the same industry sector in the county where the business's project is located;
- (b) 105% of the average compensation paid to employees working in the same industry sector in the state, if no other business in that industry operates in the county; or
- (c) 200% of the federal minimum wage, if no other business in that industry sector operates in the state.

The bill provides that the standard is the greater of (3)(a) or (3)(b) described above or 200% of the federal

minimum wage. The impact of this change is indeterminable.

*Background:* Under current statute, businesses that (1) create new investment and jobs in Indiana or (2) undertake projects to retain existing jobs in Indiana are eligible for EDGE credits. As it applies to investment that creates new jobs, the EDGE Program is designed to provide a revenue-neutral incentive for businesses to create new investment and jobs in Indiana. Such businesses receive credits equal to the individual income taxes withheld for employees filling the newly created positions. Since revenue from these employees would not have been collected in the absence of the new development, the state does not incur a net loss by redistributing the incremental income tax revenue as tax credits to businesses. For job retention projects, no new revenue would be realized since no new jobs would be created. As a result, EDGE credits for job retention are paid from existing revenues, resulting in a net loss to the state equal to the amount of EDGE credits granted to businesses for job retention. However, if a business were to select a more profitable alternative project site and move out of Indiana, there could be an even greater loss of revenue from the reduction in individual (employee's) and corporate taxes.

EDGE credits for job retention were awarded for the first time in 2003. In FY 2004 and FY 2005 the EDGE Board reserved an amount of credits up to the annual \$5 M limit for firms that applied and were approved for EDGE credits for job retention. In both years, however, a lesser amount was actually awarded, as some approved applicants failed to complete credit agreements with the EDGE Board. The EDGE credit amounts (for job retention) actually awarded in FY 2004 totaled approximately \$3.3 M and in FY 2005 totaled approximately \$3.7 M. (Note: Under current statute, the IEDC Board awards EDGE credits.) So far in FY 2006, the IEDC Board has reserved about \$2.4 M in EDGE credits for job retention for approved applicants, but only \$750,000 in credits have been awarded.

EDGE credits are awarded for a duration of up to 10 years during which the credit amounts may be used. EDGE credits may be taken against a taxpayer's AGI Tax, Insurance Premiums Tax, or Financial Institutions Tax liabilities. The duration of the credit may not exceed ten taxable years. Revenue from the AGI Tax on corporations, the Insurance Premiums Tax, and the Financial Institutions Tax is distributed to the state General Fund. Eighty-six percent of the revenue from the AGI Tax on individuals is deposited in the state General Fund, and 14% of the revenue is deposited in the Property Tax Replacement Fund.

***Hoosier Business Investment Tax Credit (HBITC):*** The bill makes the following two changes relating to the HBITC:

(1) The bill extends the sunset date for the HBITC by four years from December 31, 2007, to December 31, 2011. This would allow for new credits to be awarded by the IEDC for qualified investment occurring from 2008 through 2011. The potential amount of new credits that might be certified by the IEDC from 2008 to 2011 is indeterminable. A total of \$331.7 M in new credits was awarded in 2004 (the first year of HBITC), and \$149.6 M in new credits were awarded in 2005.

(2) The bill eliminates the separate deadline for creditable investment in machinery, equipment, or special purpose buildings used to make motion pictures or audio productions. The HBITC was extended to this type of investment effective May 15, 2005, but qualified investment must be made before January 1, 2008. The bill eliminates this deadline. The potential amount of new credits that might be certified by the IEDC for investment arising after the current deadline is indeterminable. The amount of new credits awarded in 2005 for qualified investment relating to motion picture or audio production is unknown at this time.

*Background:* Under current statute, the IEDC Board is authorized to award the nonrefundable HBITC for expenditures on qualified investment determined to foster job creation and higher wages in Indiana. The tax credit is equal to 10% of the qualified investment. (Note: The maximum allowable credit was 30% of qualified investment if approved before May 15, 2005.) A taxpayer may claim the credit against the AGI Tax, Insurance Premiums Tax, or Financial Institutions Tax liability. The tax credit may be approved only for qualified investment made during tax years 2004 to 2007. The credit is nonrefundable and may not be carried back. Unused tax credits may be carried over for up to nine years after the year in which the investment is made, unless a shorter carryover period is stipulated by the IEDC Board. A total of \$331.7 M in new credits was awarded in 2004 for 54 projects consisting of \$1,106.1 M in qualified investment. In 2005, \$149.6 M in new credits was awarded for 58 projects consisting of \$578.4 M in qualified investment.

***Headquarters Relocation Tax Credit:*** The bill reduces the existing revenue requirement a business must meet to qualify for the credit from \$500 M to \$100 M in worldwide revenue. The bill also establishes a minimum employment requirement a business must meet to qualify for the credit. An eligible business must employ at least 75 employees in Indiana. While the reduction in the revenue requirement will increase the pool of businesses that could obtain credit, the impact of the employment requirement is unclear.

The bill also moves the effective date of the credit from tax year 2007 to tax year 2006. This change potentially could move the start of any resultant fiscal impact to FY 2006 instead of FY 2007.

*Background:* The Headquarters Relocation Tax Credit is a nonrefundable tax credit against a taxpayer's Adjusted Gross Income (AGI) Tax, Financial Institutions Tax, or Insurance Premiums Tax liability for relocating a corporate headquarters to Indiana. The net revenue impact of the credit depends on the extent that tax collections on headquarters employees and other taxable activities attributable to the headquarters deviates from the amount of credits claimed by the business. However, if the headquarters relocation would have occurred in the absence of the tax credit, the net impact is equal to the total credits claimed by the business.

The credit is equal to 50% of the taxpayer's relocation costs in a given tax year. To qualify for the tax credit, the taxpayer must relocate the corporate headquarters of an "eligible business" from a location outside of Indiana to an Indiana location. The corporate headquarters building or buildings must contain the principal offices of the principal executive officers of the eligible business. An "eligible business" must: (1) be engaged in either interstate or intrastate commerce; (2) maintain a corporate headquarters at a location outside Indiana; (3) have not previously maintained a corporate headquarters at a location in Indiana; (4) have had annual worldwide revenues of at least \$500 M in the year previous to the year of application for the tax credit; and (5) commit contractually to relocating its corporate headquarters to Indiana. Under current statute the credit is effective beginning in tax year 2007.

Revenue from the corporate AGI Tax, the Financial Institutions Tax, and the Insurance Premiums Tax is distributed to the state General Fund. The revenue from the individual AGI Tax is deposited in the state General Fund (86%) and the Property Tax Replacement Fund (14%).

***Farm Mutual Insurance Companies:*** The bill allows a farm mutual insurance company to elect taxation under the Gross Premium Tax instead of the Adjusted Gross Income Tax. Currently, farm mutual insurance companies are only taxed under the Corporate AGI Tax. It is assumed that all farm mutual insurance companies would choose the tax treatment that would minimize their tax liability each year. There are currently 38 farm mutual insurance companies in the state. If this bill had been effective in taxable year 2004, the loss

in Corporate AGI Tax collections would have been approximately \$200,000, and the gain in Insurance Premium (IP) Tax collections would be approximately \$85,000, resulting in a net loss of \$115,000 in revenue to the state General Fund. Revenue from both taxes is distributed to the state General Fund.

**Explanation of Local Expenditures: Regional/Local Venture Capital Funds:** Under the bill, counties or municipalities with CEDIT revenue are authorized to use amounts of their CEDIT revenue for venture capital projects. Local authorities are required to establish either a local or regional venture capital fund to retain CEDIT revenue distributed to a local taxing unit. Additionally, a VCF may receive proceeds of either public or private grants. Money in VCFs could be used to provide loans or grants to either a private or public entity. Grants and loans must be spent on: (1) research and development technology; (2) job training and education; (3) acquisition of property interests; (4) infrastructure improvements; (5) new buildings or structures; (6) rehabilitation, renovation, or enlargement of buildings or structures; (7) machinery, equipment, and furnishings; or (8) funding small business development.

VCFs must be administered by a governing board of an unspecified number of individuals. A participating unit in a venture capital project must have at least one member on the governing board. Expenses to operate a VCF are to be paid from money in the VCF, including expense for audits conducted by the State Board of Accounts.

**Explanation of Local Revenues: CEDIT Revenue:** The potential impact of CEDIT revenue being utilized in a VCF would depend on local action. The bill authorizes counties and municipalities to place CEDIT revenue in a VCF for economic development; technology development; and industrial, commercial, and employment growth. (See *Explanation of Local Expenditures* for discussion of VCF programs.) The bill does not authorize an increase in a county's CEDIT rate. Counties and municipalities that expend CEDIT revenue for VCF purposes would have less of their CEDIT revenue available for other uses allowed under current law.

*Background:* Under current law, CEDIT revenue may be used for several purposes including: (1) county, city, or town economic or capital development projects; (2) capital improvement plans; (3) funding for increased homestead credit due to the reduction of state and county inventory taxes; or (4) maintenance of courthouse facilities. There are currently 72 counties that have adopted CEDIT. CY 2006 certified distributions for all adopting counties totaled \$236.5 M. Under current law, CEDIT rates may be set at 0.1%, 0.2%, 0.25%, 0.3%, 0.35%, 0.4%, 0.45%, and 0.5%.

**State Agencies Affected:** Department of State Revenue; Indiana Economic Development Corporation; Legislative Services Agency; Office of Management and Budget; State Board of Accounts.

**Local Agencies Affected:** Counties and municipalities receiving CEDIT revenue.

**Information Sources:** Gretchen White, IEDC, (317) 234-3997. Chad J. Sweeney, IEDC, (317) 233-4459. Indiana Department of Commerce, *2003 EDGE for Retention Annual Report*, March 31, 2004; *2004 EDGE for Retention Annual Report*, March 31, 2005. *Indiana Handbook of Taxes, Revenues, and Appropriations, FY 2005*. Bob Walls, Department of State Revenue; Dan Benefiel, Department of Insurance.

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